



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,339	02/06/2004	Eugene A. Helmetsie	60,137-207;136-3032-U	5319
26096	7590	03/07/2006	EXAMINER	
CARLSON, GASKEY & OLDS, P.C.			LE, HUYEN D	
400 WEST MAPLE ROAD			ART UNIT	
SUITE 350			PAPER NUMBER	
BIRMINGHAM, MI 48009			3751	

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No.	Applicant(s)	
	10/774,339	HELMETSIE ET AL.	
	Examiner	Art Unit	
	Huyen Le	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-6, 8-18 and 20 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "interface for mounting a removable seat 38" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Cesana (EP-0348653).

The EP-0348653 reference discloses a shower surround comprising a base portion 12; a first wall portion 17; a second wall portion 19; a corner portion 20 engaged with the base portion, the first wall portion, and the second wall portion; and the corner portion 20 comprising a cavity constituting an interface for mounting a removable component 31 (Fig. 3).

Regarding claim 3, a removable component includes a drawing 31 constituting a shelf.

Regarding claim 9, the shower surround comprises a top rim 34 engageable with the corner portion 20, the first wall portion 17, and the second wall portion 19 (Fig. 4).

Regarding claim 10, the shower head 35 mounted to the top rim 34.

Regarding claim 11, the shower surround comprises a water conduit 35' which communicates water to the shower head 35, the water conduit 35' located at least partially through the top rim 34 (Fig. 5).

4. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Jacuzzi et al (D 383,198).

The Jacuzzi et al reference discloses a shower surround comprising a base portion (tub portion); a first wall portion (left wall from the corner shelf structure); a second wall portion (right wall the corner shelf structure); a third wall portion (door); and a corner portion (shelf structure) engaged with the base portion, the first wall portion, and the second wall portion, the corner portion comprising a plurality of shelves.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4-6 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cesana (EP-0348653) in view of Britt et al (4,319,792).

Although Cesana does not specifically disclose that a central column cabinet 20 comprises a multiple horizontal slots for removably mounting the shelves 27, attention is directed to the Britt et al reference which discloses a shelf structure of a bathroom cabinet comprising shelves removably attached to the structure via the slots between projections 18a and 18b and locking members 24a and 24b.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the shelves of Cesana such that they are removably attached to the corner portion via slots formed by the projections and locking members in view of the teaching of the Britt et al reference for easily adjusting the

Art Unit: 3751

position of the shelves to accommodate different sizes of soap, shampoo and other bathing accessories.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cesana (EP-0348653) in view of Bonack et al (6,640,354).

Although Cesana does not disclose a seat mounted to the corner portion of the shower device, attention is directed to the Bonack et al reference which discloses shower device comprising a seat mounted at a corner portion of the shower.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide seat on the Cesana shower device in view of the teaching of the Bonack et al reference for providing comfort a user, such as, the elderly, handicapped and children.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cesana (EP-0348653) in view of Zaccai et al (5,329,650).

Although the Cesana reference does not disclose that the shower surround includes an integral light within the corner portion, attention is directed to Zaiccai et al reference which discloses a shower surround comprising a light 98 integral within a control column 32.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made provide a light integral in the corner portion (control column) of the Cesana shower device in view of the teaching of the Zaccai et al reference for providing comfort to a user.

9. Claims 1, 3-6, 9, 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacuzzi et al (D 383,198) in view of Haghayegh (6,591,762).

The Jacuzzi reference discloses a shower surround comprising a base portion (tub portion); a first wall portion (left wall from the corner shelf structure); a second wall portion (right wall the corner shelf structure); a corner portion (shelf structure) engaged with the base portion, the first wall portion, and the second wall portion; and the corner portion comprising a plurality of shelves.

Although the Jacuzzi et al reference does not disclose that the shelves are removably mounted to the corner shelf structure via horizontal slots, attention is directed to the Haghayegh reference which teaches a shelf 20 having structures 29 for removably mounted to a corner via slots 40,50.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the shelves of the Jacuzzi et al shower stall in view of the teaching of the Haghayegh reference so that shelves can be removably mounted to the corner structure via slots for easy adjustment as needed.

Regarding claims 4-6, the modified corner portion would include a multiple shelf slots.

Regarding claims 9 and 16, the shower surround comprises a top rim engageable with the corner, first and second portions, wherein the rim is an annular frame.

Regarding claim 17, the annular frame defines an opening there through that is generally parallel to the base portion (Figs. 1 and 7).

Regarding claim 18, the shelf slots would include openings that extend into the corner portion.

10. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jacuzzi et al (D 383,198) in view of Haghayegh (6,591,762) as described above and further in view of Zaccai et al (5,329,650).

Although the Jacuzzi et al reference does not disclose that the shower surround includes an integral light within the corner portion, attention is directed to Zaiccai et al reference which discloses a shower surround comprising a light 98 integral within a control column 32.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made provide a light integral in the corner portion (shelf portion) of the Jacuzzi et al shower device in view of the teaching of the Zaccai et al reference for providing comfort to a user.

Response to Arguments

11. Applicant's arguments filed 12/14/2005 have been fully considered but they are not persuasive.

Regarding the applicant's arguments that there is no motivation to modify the shower surround of Cesana to include removable shelves of Britt because the shelf of Britt is for particular use in a cabinet and to for a shower cubicle, Britt is non-analogous art, the examiner respectfully disagrees with the applicant. Britt discloses a shelf for attaching to a cabinet in a bathroom environment. Cesana disclose a shower device a having a central column including shelves, draws, receptacle with door panels all which

Art Unit: 3751

constitute a cabinet in a bathroom environment. Therefore, it would have been obvious to one of ordinary skill in the art to modify the shelves of the Cesana cabinet to be removable in view of the teaching of Britt for enhancing the convenient use of the shelves.

12. Applicant's arguments with respect to claims 1 and 20 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

13. Claim 19 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3751

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890.

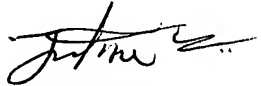
The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HL

February 28, 2006


JUSTINE R. YU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
3/2/06